IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s)	:	McCombe et al.
Serial No.:	:	09/738,786
Filing Date	:	December 15, 2000
For	:	A System and Method for Managing Client Processes
Group Art Unit	:	2155
Confirmation No.	:	3798
Examiner	:	Bharat Barot

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Commissioner for Patents
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RESPONSE

In response to the rejection entered by the Board of Patent Appeals and Interferences in its decision of September 9, 2008 (Appeal 2008-0841), please consider the following remarks:

REMARKS

Claims 1-11 remain pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable. The Board reversed the Examiner's rejection of claims 1-11 under 35 U.S.C. § 103, bur entered a new ground of rejection under 35 U.S.C. §112, second paragraph. (*See* 9/10/08 Decision on Appeal).

The Board rejected claims 1-11 under 35 U.S.C. § 112, second paragraph, because it is unable to determine the scope of the feature, recited in claims 1, 6, and 11, of a manager task that kills the execution of a client task when a current client process is not completed within a predetermined time. To support this rejection, the Board attempts to draw a contrast between this claim feature and the statement at page 5, lines, 23-25, of the specification, which states that "[i]n the event that manager task 150 has not received the proper indication within a predetermined period of time, manager task 150 may kill the execution of client process 170 within processor 100 by restarting client task 160." Apparently, the Board believes that this statement is all that the specification has to say on the feature of killing a particular operation, and that the characterization of a process as a restarting of client task is mutually exclusive with that of a process as a killing of a client task. That is not so. First, the specification contains statements where it explicitly states that what is being killed is a client task. For example, the Abstract states that "the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period." Similarly, the specification at paragraph [0004] (reference is to the published version), states that "the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period." Thus, contrary to the apparent basis for the Board's rejection, it is not the case that the specification lacks an explicit description of a task being killed.

Moreover, no inconsistency exists between the specification stating that a process is killed (as in the passage cited by the Board) and that a task is killed (as in the passages noted by Applicants). As shown in Figure 3, from a conceptual standpoint, a process is executed within a task. This is expressed in the specification at paragraph [0013], which states that ""[c]lient process 170 may execute within client task 160." More specifically, "the term task (e.g.,

manager task 150 and client task 160) is used to define an element of the present invention that work in conjunction to manage the execution of user processes." Paragraph [0013]. In addition, "client process 170 may be queued into client task 160 for execution by processor 100." Id. Thus, since the client process is executed within and managed by a client task, a restart of the client task not only kills the client process, but also kills the client task as well. As stated in the specification, "[s]ince client process 170 is queued within client task 160, this restart kills the execution of client process 170. Upon restart of client task 160, manager task 150 may then queue the next client process (not shown) into client task 160 so that it may be executed by processor 100." Paragraph [0015]. Thus, it is not the case that the act of restarting and the act of killing are mutually exclusive. If a client task is restarted, that means that its current iteration is killed in favor of a new iteration involving a new client process queued up by the management task. If a client task restart involves the dispensing of a current iteration that is executing a current client process, then it follows that such a dispensing may be accurately regarded as a killing of that iteration. That is why the specification mentions killing a process and killing a task. Killing a process by restarting the task to which it belongs is in effect a killing of that task. Thus, in view of this discussion, one of ordinary skill in the art would be able to discern the scope of claims 1-11. Accordingly, withdrawal of the rejection of claims 1-11 under 35 U.S.C. § 112, second paragraph, is requested.

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: November 10, 2008

By:_____
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REQUEST FOR REHEARING UNDER 37 CFR 41.52

In response to the new grounds of rejection of claims 1-11 entered by the Board
of Patent Appeals and Interferences in its decision of September 9, 2008 (Appeal 2008-
0841), Applicants respectfully request a rehearing by the Board on the evidence on the
record and the Response submitted herewith to address the new grounds of rejection by
the Board.

Respectfully submitted,

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